



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 3763-99
10 November 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 2 February 1991.

2. The Board, consisting of Mr. Milner, Ms. Humberd and Ms. Taylor, reviewed Petitioner's allegations of error and injustice on 9 November 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner was issued a Notification of Eligibility for Retired Pay at Age 60 on 11 October 1973. However, he continued to serve in the Naval Reserve. He reenlisted in the Naval Reserve on 3 February 1985 and subsequently extended that enlistment for two years. On 16 July 1988 he was advanced to BMCS (E-8). The record shows that he transferred to the Individual Ready Reserve (IRR) on 31 March 1989 and remained in that status until he was honorably discharged on 2 February 1991 at the expiration of his enlistment of his enlistment as extended. Petitioner was 60 years old on 31 August 1995.

d. The Board did not request an advisory opinion in this case. However, the Navy Personnel Command has routinely

recommended corrective action in similar cases when an individual is qualified for reserve retirement and there is no explanation in the record why the individual was discharged and not retired.

e. The Board is aware that the Uniform Retirement Date Act 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Naval Reserve and would have been retired if he had requested it. Therefore, given the requirements of the Uniform Retirement Date Act, the Board concludes that the record should be corrected to show that he transferred to the Retired Reserve in the grade of BMCS on 1 February 1991, vice being discharged on 2 February 1991. In addition, Petitioner should be transferred to the Retired List on his 60th birthday, 31 August 1995.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's record be corrected to show that he transferred to the Retired Reserve in the rate of BMCS on 1 February 1991, vice being discharged on 2 February 1991. In addition, he should be transferred to the Retired List on 31 August 1995, his 60th birthday.

b. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

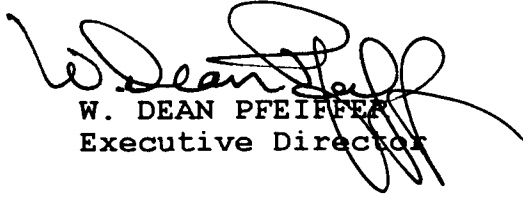
ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby

announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director